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THAT ONE VIDEO ENTERTAINMENT, LLC, a  
California limited liability company

**UNITED STATES DISTRICT COURT**  
**FOR THE CENTRAL DISTRICT OF CALIFORNIA**

THAT ONE VIDEO  
ENTERTAINMENT, LLC, a  
California limited liability company,

Plaintiff,  
vs.

KOIL CONTENT CREATION PTY  
LTD., an Australian proprietary  
limited company doing business as  
NOPIXEL; MITCHELLE CLOUT,  
an individual; and DOES 1-25,  
inclusive,

Defendants.

CASE NO: 2:23-cv-02687 SVW (JCx)

[Assigned to the Hon. Stephen V. Wilson;  
Ctrm 10A]

**PLAINTIFF'S SUPPLEMENTAL  
MEMORANDUM IN SUPPORT OF  
PLAINTIFF'S POSITIONS IN THE  
JOINT STIPULATION REGARDING  
DISPUTE OVER PRODUCTION OF  
DOCUMENTS**

**Hearing:**

Judge: Hon. Jacqueline Chooljian

Date: July 30, 2024

Time: 9:30 a.m.

Place: Ctrm 750, 255 East Temple Street,  
Los Angeles, California, 90012

Action Filed: April 10, 2023

Trial Date: September 17, 2024

**PLAINTIFF'S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF  
PLAINTIFF'S POSITIONS IN THE JOINT STIPULATION REGARDING  
DISPUTE OVER PRODUCTION OF DOCUMENTS**

1                                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2           Pursuant to Local Rule (“L.R.”) 37-2.3, Plaintiff THAT ONE VIDEO  
3 ENTERTAINMENT, LLC, a California limited liability company (“TOVE” or  
4 “Plaintiff”) hereby submits this Supplemental Memorandum in support of its  
5 positions set forth in the Joint Stipulation regarding the dispute between Plaintiff  
6 and Defendant KOIL CONTENT CREATION PTY LTD., an Australian proprietary  
7 limited company doing business as NOPIXEL (“NoPixel” or “Defendant”) over  
8 documents and information sought by way of Plaintiff’s First Set of Requests for  
9 Production of Documents (“Plaintiff’s Document Requests”), and documents sought  
10 by way of Defendant’s First Set of Requests for Production of Documents  
11 (“Defendant’s Document Requests”).

12   **I. INTRODUCTION**

13           Although the Court may be tempted to making a ruling granting both sides the  
14 documents they respectively seek, if only because both sides have presented an  
15 ostensible claim for entitlement thereto, Plaintiff asks that the Court look carefully  
16 at the merits of each side’s respective claim. On the one hand, Plaintiff seeks  
17 uncontroversial financial documents evidencing profits generated by the NoPixel  
18 Server because Plaintiff claims to be a co-owner entitled to an accounting of such  
19 profits. On the other hand, Defendant seeks litigation strategy communications  
20 protected by the common interest privilege between Plaintiff and Daniel Tracey and  
21 made *after* the relevant time period that Mr. Tracey worked on the NoPixel Server.

22           Those two requests are not equal, and the Court should not treat them as such  
23 simply because both are brought by way of this discovery dispute. Rather, the Court  
24 should recognize that Plaintiff is entitled to basic financial documents, pursuant to  
25 the broad discovery rights conferred to it by the Federal Rules. Conversely, the  
26 Court must find that Defendants’ request for communications made after the  
27

relevant time period of Mr. Tracey's work with Defendant, and involving protected litigation strategy, is not proportionate to the issues present in this dispute.

## **II. ARGUMENT**

### **A. Defendant's Responses to Plaintiff's Document Requests**

Plaintiff reiterates that the financial documents it seeks via Request No. 16 *are specifically relevant to Plaintiff's First Cause of Action for a determination that Plaintiff is a co-owner in the copyright to the relevant code and Third Cause of Action for an accounting of all profits generated therefrom*. Defendants conspicuously (and intentionally) avoid any discussion of the copyright ownership issue – choosing instead to only discuss the agreement that Plaintiff alleges existed via its Second Cause of Action. But the Court should not allow Defendants tactics to muddy the waters: Plaintiff's contention is that it is entitled to financial documents because such documents are related to Plaintiff's First and Third Causes of Action.

When seeking to compel discovery responses, the burden is initially on the moving party to show how the requested discovery is relevant – but that burden then shifts to the opposing party to show that the discovery should be prohibited. *Pitts v. Davis*, 2014 WL 4635464, at \*4 (E.D. Cal. Sept. 15, 2014); *see also DIRECTV, Inc. v. Trone*, 209 F.R.D. 455, 458 (C.D. Cal. 2002). Here, Plaintiff has met its initial burden of establishing that it is entitled to financial documents regarding revenues generated from the NoPixel Server, by establishing that it has valid causes of action for a determination of co-ownership in the copyright of the NoPixel Server code, and an accounting of profits therefrom. And Defendants have done nothing to meet their heavy burden of showing why this request should be denied – other than to insist that such documents are “irrelevant” because Defendants would prefer to ignore that Plaintiff's First and Third Causes of Action exist.

Accordingly, Plaintiff is entitled to all financial documents sought via Request No. 16 of Plaintiff's Document Requests.



1 **III. CONCLUSION**

2 For the foregoing reasons, Plaintiff respectfully request that the Court grant  
3 Plaintiff's request for production of financial records sought via Plaintiff's  
4 Document Requests, and deny Defendants' request for communications sought via  
5 Defendant's Document Requests.

6 DATED: July 16, 2024

**ALTVIEW LAW GROUP, LLP**

7  
8 By: /s/ John Begakis, Esq.  
9 **JOHN M. BEGAKIS**  
10 *Attorneys for Plaintiff* THAT ONE VIDEO  
11 ENTERTAINMENT, LLC, a California  
12 limited liability company  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing electronically filed document has been served via a “Notice of Electronic Filing” automatically generated by the CM/ECF System and sent by e-mail to all attorneys in the case who are registered as CM/ECF users and have consented to electronic service pursuant to L.R. 5-3.3.

Dated: July 16, 2024

By: /s/ John Begakis  
John M. Begakis